THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.19437 OF 1996

DATE: 18-1-2007
Between:

The Depot Manager,
APSRTC, Vinukonda
Guntur Dist. .. Petitioner

And

1. Sri V.Venkata Rao and another. ... Respondents

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.19437 OF 1996

ORDER:

Aggrieved by the award of the Labour Court, Guntur in I.D.266 of 1993 dated 30.12.1995, the present writ petition is filed.

The 1st respondent was appointed as a conductor on 9.8.1991. He was placed under suspension on 19.3.1993 and issued a charge sheet wherein it was alleged that he had produced a fake certificate with Roll No.100532 that he had passed X class. Since his explanation was not found satisfactory an enquiry was conducted and, on the enquiry officer holding him guilty, a show cause notice was issued calling for his explanation and finally the 1st respondent was removed from service, vide proceedings dated 14.7.1993.

Since the validity of the domestic enquiry was not questioned, the Labour Court examined the evidence on record under Section 11-A of the Industrial Disputes Act, 1947. The charges leveled against the 1st respondent was for his having secured a job as a conductor in Narasaraopet Division by producing a fake SSC certificate with Roll No.100532 thereby cheating the respondent – organization. In the enquiry, reliance

was placed on the certificate issued by the Additional Joint Secretary to the Commissioner for Government Examinations dated 12.3.1993. It is stated therein that the SCC certificate No.100532 submitted by the 1st respondent was not genuine. During the course of enquiry the 1st respondent contended that while he was residing in Hyderabad in 1980 some unknown culprits had torn his X class certificate, that he had given a report to the Police and when he went to the Board of Secondary Education and asked for a duplicate certificate, he was given that certificate and, without verifying it, he had produced the certificate. The 1st respondent contended that he did not secure the job by cheating and that he had studied intermediate and had passed ITI in first class. The Deputy Superintendent, Narsaraopet Division, who was examined as the management witness before the enquiry officer stated that, at the time of interview, the 1st respondent had produced the SCC certificate and had got the job, that the certificate was sent to the Board of Secondary Education for verification and thereupon the certificate was found to be fake. The Deputy Superintendent also stated that the Certificate No.100532 of March, 1980 belong to one Sri P.Seetharambabu and the date of birth was mentioned as 1.7.1965. The enquiry officer, in his report, disbelieved the version of the 1st

respondent and held that the certificate No.100532 belonged to Sri P.Seetharambabu S/o C.S.Krishnamurthy and that the petitioner had produced the certificate showing himself as son of Venkatarao with the date of birth as 10.7.1962.

The Labour Court held that the petitioner herein ought to have obtained the certificate, containing Roll No.100532, from the Board of Secondary Education to disprove the certificate produced by the 1st respondent and ought to have shown that it belonged to Sri V.Seetharambabu and not to the 1st respondent. The action of the petitioner, based solely on the certificate of the Additional Joint Secretary, was held not to be sufficient. The Labour Court further held that the petitioner herein ought to have enquired as to how the certificate was issued to the 1st respondent by the Board of Secondary Education when the said certificate showed that it was signed by the Additional Joint Secretary. The Labour Court took note of the contention of the 1st respondent that he had not only passed X Class but had also studied intermediate and had also passed ITI in first class.

The Labour Court was of the view that it could not be held that the 1st respondent had produced a fake certificate to secure a job in the respondent – corporation. The Labour Court held that the petitioner herein had failed to establish that the 1st respondent

had produced a fake certificate to obtain the job and since the charge was not established, the order terminating the 1st respondent from service was not legal and that he was entitled for reinstatement with continuity of service, back wages and other attendant benefits.

It is no doubt true that the labour court, in exercise of the powers conferred under Section 11-A of the Industrial Disputes Act, is entitled to re-appreciate the evidence on record as also to examine the nature and extent of punishment imposed on the delinquent employee by his employer. The jurisdiction of the Labour Court under Section 11-A is, however, not unlimited. It is only when the evidence on record clearly establishes that the charges leveled against the delinquent employee are not established, would the Labour Court be justified in interfering in the matter. In the case on hand, the certificate issued by the Addl. Joint Secretary to the Commissioner for Government Examinations shows that the certificate produced by the petitioner was not genuine and that it belonged to one Sri P.Seetharambabu. It is not even the case of the 1st respondent that the certificate was genuine, for he stated that his X Class certificate was torn by some unknown culprits, that he had gone to the Board of Secondary Education to ask for a duplicate certificate and, without verifying the same, he had produced the

certificate and had secured the job.

The findings of the Labour Court that the X Class certificate issued to Sri P.Seetharambabu should have been produced and that the letter issued by the Additional Joint Secretary of the Board of Intermediate Education was not sufficient is clearly a perverse finding. No reasons are given by the Labour Court as to why the certificate issued by the Additional Joint Secretary should not be accepted, more so, when the validity of the said certificate was not even disputed by the 1st respondent-workman. It is true that this Court, under Article 226 of the Constitution of India, would not sit in appeal over findings of fact recorded by the Labour Court nor would it re-appreciate the evidence on record and substitute its views for that of the Labour Court. However, where the findings of the Labour Court are based on no evidence, the conclusions arrived at are based on irrelevant considerations and where there is an error apparent on the face of the award, this Court would be justified in interfering in the matter.

The findings of the Labour Court, in holding that the 1st respondent was not guilty of the charge, are perverse and is based on no evidence. No valid reasons are assigned by the Labour Court for not accepting the letter issued by the Additional Joint Secretary of the Board of Intermediate Education which clearly states

that the certificate produced by the 1st respondent was fake. Having obtained employment on the basis of a fake educational certificate, no sympathy can be shown favour of the in 1st respondent.

The award of the Labour Court is accordingly quashed. The writ petition is allowed. However, in the circumstances, without costs.

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18-1-2007

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